

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Norfolk Division)**

SOUTHERN BANK & TRUST, CO.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adversary No. _____
	)	
THOMAS W. BASHARA	)	
	)	
PREMIER SOCCER, INC.	)	
	)	
RED FISH DREAM, INC.	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT IN ADVERSARY PROCEEDING**

Plaintiff Southern Bank & Trust Co. (“Southern Bank”), by and through undersigned counsel, files its adversary proceeding against Defendants Thomas W. Bashara (“Bashara”), Premier Soccer, Inc. (“Premier”), Red Fish Dream, Inc. (“Fish”), in the underlying Chapter 7 Bankruptcy Case No. 19-74721-SCS pending before this Court.

**PARTIES**

1. Plaintiff Southern Bank is a North Carolina corporation that is registered to do business in the Commonwealth of Virginia with its principal office address in Mount Olive, North Carolina.
2. Defendant Bashara is an individual and resident of the Commonwealth of Virginia who filed a Chapter 7 Bankruptcy action on December 23, 2019.
3. Defendant Premier is a stock corporation formed in the Commonwealth of Virginia with its principal office in Norfolk, Virginia.

4. Defendant Fish is a stock corporation formed in the Commonwealth of Virginia with its principal office in Norfolk, Virginia.

#### **JURISDICTION & VENUE**

5. All acts of the Defendants herein complained of took place in the context of, and related to, a loan transaction which is set out in Bashara's Petition in Bankruptcy, and this Complaint is filed pursuant to Fed. R. Bankr. P. 7001, incorporating Fed. R. Civ. P. 9(b).

#### **FACTUAL ALLEGATIONS**

6. On May 11, 2018, Premier and Fish with Southern Bank closed a commercial loan in the amount of \$190,000.00 and executed and delivered a negotiable promissory note evidencing the same ("Promissory Note"). *See Exhibit A.*
7. Southern Bank's loan commitment provided for the loan to be secured by a deed of trust encumbering and establishing a security interest in real property located at 5000 Colley Avenue, Norfolk, Virginia ("Property"), and on May 11, 2018, Premier and Fish, acting through Bashara, executed and delivered to Southern Bank a deed of trust purporting to encumber the Property ("Deed of Trust"). *See Exhibit. B.*
8. The Deed of Trust is of record in the Office of the Clerk of the Circuit Court for the City of Norfolk as Instrument Number 180009600 as of May 14, 2019.
9. On May 11, 2014, Bashara, neither Premier nor Fish, held title to the Property, and on information and belief the conveyance by Premier and Fish was in error and based on misinformation.
10. Bashara certified to Southern Bank that he was the beneficial owner and sole shareholder of Premier and Fish on May 11, 2018. *See Exhibits C & D.*

11. On May 11, 2018, Bashara executed and delivered to Southern Bank his personal guarantee of the performance of Premier and Fish in accordance with the loan terms and conditions (“Commercial Guaranty”). *See Exhibit E.*
12. On October 11, 2019, Bashara conveyed the Property to Margaret P. Bashara (“Margaret”) by deed recorded in the Office the Clerk of the Circuit Court for the City of Norfolk as Instrument Number 190820201 on October 15, 2019 (“Deed”). *See Exhibit F.*

**Count I (Voluntary or Fraudulent Transfer)**

13. Plaintiff adopts and incorporates by reference Complaint Paragraphs 1 through 12.
14. The Property at the time of the subject loan transaction was valued at \$252,363.00 per independent appraisal (“Property Evaluation”). *See Exhibit G.*
15. Bashara filed his Chapter 7 Bankruptcy Petition on December 23, 2019, less than two months after conveying the Property to Margaret who, upon information and belief, is his elderly mother.
16. A review of Bashara’s petition in Bankruptcy reveals that his indebtedness and general financial condition two months before his filing was perilous and that he could not have but been aware of the same.
17. The value of the Property was a primary element of Southern Bank’s decision to approve of the application of Premier and Fish.
18. Bashara was aware that Premier and Fish would not be able to perform on the Loan, that Southern Bank did not hold a valid deed of trust and would have no other course than to enforce the Commercial Guaranty to obtain a judgment against him personally, upon which the docketed judgment would then attach to the Property.

19. Under Virginia law, transferring property to avoid creditors is a badge of fraud, and the transfer to Margaret on October 11, 2019, constituted a fraudulent conveyance.
20. Margaret, being related to Bashara, on information and belief was aware of his financial problems and, if the consideration recited on the Deed is accurate, would not constitute fair value and adequate consideration.
21. Margaret was not a *bona fide* purchase for value.
22. Southern Bank duly recorded its deed to the Property on May 11, 2018, and has priority status.
23. Therefore, Southern Bank, having a clear and legitimate interest seeks the Court to void the October 11, 2019, Deed to the Property.

#### **CONCLUSION AND PRAYER FOR RELIEF**

WHEREFORE, Southern Bank respectfully requests this Court to void the October 11, 2019, Deed to Margaret and find that Bashara acted fraudulently to keep the Property out of the bankruptcy estate and subject the interest of Southern Bank as a creditor with a guaranty.

Dated: July 15, 2020

Respectfully Submitted,

/s/ Allison K. Riddle

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiff's Complaint in Adversary Proceeding was filed via the Court's electronic case filing system to the following on this 15th of July, 2020, and mailed or electronically transmitted to the following:

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*Chapter 7 Trustee*

/s/ Allison K. Riddle  
Allison K. Riddle (VSB No. 93727)